

# SFY 2015 Native American Programs Subgrant Application

Title II Formula Grant

South Dakota Department of Corrections  
APPLICATION DUE : May 30, 2014

Applicants with original signatures must be submitted and received by the Department of Corrections by the close of business on May 30, 2014. Faxed and emailed applications will not be accepted. Submit complete applications to:

*Bridget Coppersmith  
Juvenile Justice Specialist  
Department of Corrections  
3200 East Highway 34  
Pierre, SD 57501-5070*

RECEIVED  
DEC 02 2014  
DEPT. OF CORRECTIONS

The application must include a brief and clear description of each component. It is important to follow all directions, provide complete information, and submit the materials in the order requested. If you need additional room to respond to the components, please attach additional sheets. This is a competitive subgrant program and funding is not guaranteed to all those who apply. Previous versions of applications will not be accepted.

## SECTION 1. APPLICANT INFORMATION

Applicant: Lower Brule Sioux Tribal Court	
Address: 100 Akicita O'Tipi	
City/State/Zip: Lower Brule, SD 57548	Phone: 473-5528 Fax: 473-2045
Email: <a href="mailto:lminer@lowerbrule.net">lminer@lowerbrule.net</a>	Federal Employer or Payee Identification Number (FEIN): 46-0222351
Project Director Name: Lorrie Miner	Title: Chief Judge
Agency: Lower Brule Sioux Tribal Court	Address: 100 Akicita O'Tipi
City/State/Zip: Lower Brule SD 57548	Phone: 473-5528   Fax: 473-5528
Email: <a href="mailto:lorrieminer@lowerbrule.net">lorrieminer@lowerbrule.net</a>	
Select the type of service to be implemented: <input checked="" type="radio"/> Delinquency Prevention Services <input type="radio"/> Supervision Services	
Please indicate the name of the service(s) implemented: Development of Youth Shelter Policies and Procedures for Implementation and Operation of Youth Shelter in lieu of juvenile detention	
Project Title: Youth Shelter Policies and Procedures Development	
Project Period: July 1, 2014 - June 30, 2015	



## SECTION 2. PROJECT BUDGET

The Council of Juvenile Services will award or not award funding based the extent to which program design addresses a recognized need and whether the proposal is financially responsible and efficient. Funds will be paid through a reimbursement process for items specifically outlined and approved in the application.

Applicants may apply for up to \$20,000.

**Non-supplanting Requirements:** Funds or other resources of the applicant normally devoted to programs and activities designed to meet the needs of criminal justice will not be diminished in any way as a result of a grant award of federal funds. The project for which assistance is being requested will be in addition to, and not a substitute for, criminal justice services previously provided without federal assistance.

<b>A. Personnel</b>	<b>TOTAL</b>
	\$
<i>Employee Fringe Benefits</i>	
<b>TOTAL</b>	\$
<b>B. Contracted Services</b>	<b>TOTAL</b>
Consultant to develop Youth Shelter policies and procedures	\$17500
<b>TOTAL</b>	\$17500
<b>C. Travel and Per Diem</b>	<b>TOTAL</b>
Two trips to Lower Brule from Washington DC or consultant's home site	\$2500
(2 round-trip flights to Sioux Falls; 2 round trip mileage from SF airport to Lower Brule, 2-three night stay at Lower Brule; per diem for 4 days at Lower Brule x2)	
<b>TOTAL</b>	
<b>D. Equipment</b>	<b>TOTAL</b>
<b>TOTAL</b>	\$
<b>E. Operating Expenses</b>	<b>TOTAL</b>
<b>TOTAL</b>	\$
<b>Total Project Budget -- Combined totals/or all columns</b>	<b>\$20,000</b>



### SECTION 3. BUDGET NARRATIVE CONTINUED

Contracted Services Narrative - Explain the consultant fees, consultant expenses, contracted services, the cost per service/per youth being served, and how the cost for services was calculated. Contracted services fees cannot exceed \$450 per youth.

Consultant #1: | To be determined

Consultant Fees: To be determined, not to exceed the \$17,500 requested

Contracted Service: Consultant to develop policies and procedures for Youth Shelter

Consultant #2: |

Consultant Fees:

Contracted Service:

Travel and Per Diem Narrative - Explain the calculation of travel costs for travel outside the home jurisdiction (travel must be calculated at current state rates (\$0.37 per mile and \$26 per diem)), how the expenses are directly related to the implementation of the project, and if out-of-state travel is anticipated, give particulars (i.e., location, state, dates, purpose, cost).

Purpose of Travel: 2 trips to Lower Brule to visit site, staff and council (from SF Airport to Lower Brule

*[Mileage] x \$0.37 = 170 miles x 4 x .37 = 251.60*

*[Number of Travel Days /or per diem] x \$26.00 = 8 x 26 = 208*

*2 - round trip flights from Washington, DC to Sioux Falls and car rental: 644 x 2 = 1288*

*Hotel 3 nights x 100 per night x 2 = 600*

*(\$2,347 per calculations, flights may increase if booked less than 30 days out)*

Purpose of Travel:

*[Mileage] x \$0.37 =*

*[Number of Travel Days for per diem] x \$26.00 =*

Equipment and Operating Expenses Narrative - Explain the supplies and equipment costs directly related to the implementation of the program or project. You must be specific regarding the items in which you intend to use federal funding. For example, a budget item of "office expenses" will not be accepted as these items must be detailed. You need to identify what you anticipate for office expenses and list each item and the estimated costs. Items not specifically outlined will not be eligible for reimbursement.

Equipment - List nonexpendable items that are to be purchased and show how you calculated these costs. Nonexpendable equipment is tangible property having a useful life of more than 2 years.

Operating Expenses - List items by type (office supplies, postage, training materials, copying paper, and expendable equipment) and show how you calculated these costs. Generally, supplies include any materials that are expendable or consumed during the course of the project.

NOTE: If there is a change in the above budget narrative, programs will need to request an amendment to their budget. All amendments must be requested in writing prior to the expenditure of funds.



## SECTION 4. APPLICATION NARRATIVE

### A. ABSTRACT AND DEMONSTRATION OF NEED

Provide a narrative overview of the proposed service including a demonstration of need and an explanation of why the proposed service is the best option to address delinquency.

Lower Brule Sioux Tribal Court is one of four tribal nations selected to develop juvenile diversion program and prepare guide for other tribal courts in Indian Country considering a diversion program. There is need for a youth shelter in lieu of the court using detention as a structured environment for juveniles that lack supervision at home. A youth shelter will be available for court-ordered youth rather than detention for limited time to allow issues at home to stabilize and services provided to both youth and parent. Further, a youth shelter would be available to those youth that need a safe place to go when parties or violence is occurring in the home, rather than wandering the community at all hours and getting into trouble. Tribal council has two remodeled homes currently available, and another remodeled home/building that was used as the Youth Vocational Rehabilitation program is also vacant. There is need for policies/procedures to be developed in accordance with federal and law and guidelines so shelter is operating in accordance to law. Right now, if a juvenile is detained, the parent/guardian/custodian just walks out the courtroom door with no responsibility. If a youth is not detained, the youth often runs away from home, hangs out in the community using drugs and engaging in risky behavior. A youth shelter would allow for family engagement such as parenting classes, behavioral health counseling, warm and safe place to stay, sober adult supervision, and structure (such as doing homework, helping with shelter chores, attending school, being in by curfew...things the parent/guardian/custodian should already be providing, but isn't).

### B. COMMUNITY READINESS

1. Is the community aware of juvenile delinquency problems? Yes, very much so. The community is concerned about synthetic drug use, methamphetamine, and an increase in burglaries involving juveniles. Community members often comment there needs to be a safe place for kids to go when things are bad at home.
2. Is the community optimistic that change can occur? The community wants change. It is easy to be pessimistic. The hard work is actually rolling up your sleeves and doing something with the youth rather than just being on face book and complaining.
3. Does the community support your current efforts? The community has been supportive of Tribal Court efforts with the youth, including Talking Circles and juvenile outpatient treatment implemented at the school. The community is willing to try new approaches. The Tribe has established a Synthetic Drug Task Force with 25 members to develop a "community response to a community problem."
4. What would the community recommend as the best use of funding to address delinquency? The community responds when they can "see" a program....that is, a visible activity in the community.

A youth shelter will be visible. The community supports a youth shelter instead of detention. It is a common topic at community meetings that shelter or safe house for the young is discussed. The community wants kids to be safe, and acknowledges that safety is not always a concern in many homes.



5. How would the justice system be involved?

Tribal court juvenile probation will refer probationers to the youth shelter in lieu of detention when a shelter would be appropriate. Violent offenders or sex offenders would not be eligible for the youth shelter.

6. How would the justice system be involved?

Tribal court juvenile probation will refer probationers to the youth shelter in lieu of detention for appropriate offenses (as will be defined in policies and procedures). Community youth will also be allowed access to shelter if drinking/drugs/ violence occurring at home.

7. Is the justice system aware of their expected involvement? YES!

8. Is the justice system willing to work toward the same goals and outcomes? Yes.

Lower Brule Sioux Tribe being selected to participate in *Juvenile Justice for Tribal Youth: A Policy Academy Initiative*. This initiative, jointly funded by the Substance Abuse and Mental Health Services Administration and the John D. and Catherine T. MacArthur Foundation, will run through December 31, 2015. Throughout this initiative, technical assistance will be provided to participating tribes to guide and support the implementation of innovative approaches to front-end diversion of youth with behavioral health disorders to culturally relevant community-based services. Lower Brule is one of four Tribes selected. Need for a youth shelter has been discussed at two of the trainings/workshops with the three other tribes. It is time to remember that traditional and culturally our children are sacred.

9. How would the school system be involved? The school may make referrals to the youth shelter. Development of policies and procedures will require school involvement and may well expand school involvement with the shelter (providing transport to and from school, helping with food preparation, teaching independent living skills are just some examples of school involvement)/

10. What partnerships need to be developed? Tribal court works with other tribal programs to maximize our limited resources. The tribal programs and tribal court typically serve the same individuals and/or families (i.e., if a parent or parents are in the adult criminal system, it is highly likely that their child/children are in the legal system or experiencing difficulties in school). This grant will allow the programs another opportunity to be at the same table and works towards solutions for the at-risk and high-risk youth.

11. Are there any barriers that may prevent change in your community? Change will not occur over night, but takes time and effort put forth to make change. Tribal Council has been very supportive of Tribal Court's efforts with both the youth and adults.



## C. ASSESSMENT OF DELINQUENCY RISK AND PROTECTIVE FACTORS

1. Describe the demographics of the youth involved with the juvenile justice system under the age of 18. Examples: age, sex, race of youth. Information may include local, county, and/or Tribal sources.

Ages 13 – 17.

60% male, 40% female

Native American youth

2. What are the top delinquency offences for youth? Information may include local, county, and/or Tribal sources. Note: Delinquent offenses do not include status offenses (truancy, runaway, etc).

1. Possession, Sale or Distribution of Substance, Except Alcohol, for the Purpose of Intoxication (synthetic marijuana)

2. Simple Assault

3. Burglary

3. When and where are delinquent offenses taking place? Examples: after school in homes; during the school day at school

After school between 3:30 p.m. – 8:00 p.m.

During the school day at school

Weekends

4. Which delinquent offense is the most concerning and why?

Ingestion of synthetic marijuana. The youth using synthetic marijuana are experiencing seizures, displaying paranoid behavior, anger, aggression, assaultive behavior and increase in suicidal ideation and attempts. Why are kids using synthetic marijuana .....readily available over the internet, less expensive than other illegal drugs and unable to detect in field testing. Tribal Court is spending approximately \$8,000 a month for laboratory confirmation costs (adult and juvenile combined).

5. What current services are available for youth? Examples: Boys and Girls Club; afterschool programming; counseling services

Lower Brule Boys and Girls Club offers after school/evening activities. The Community Center has basketball and swimming available after school/evenings. Lower Brule Counseling Services provides juvenile MRT at the school during school hours. New Life Center provides juvenile outpatient treatment (medicine wheel model/white bison) at the school during school hours. Tribal Court juvenile probation hosts Boys and Girls Talking Circles. Community churches offer youth activities open to all denominations. A VAWA grant administered by Tribal Court provides a school social worker(MSW).

6. What positive activities do youth partake in? Examples: School clubs and sports; community activities; volunteer work SPORTS----basketball is big.  
ROTC; basketball; football; cross country; and wrestling are through the school.



## D. IDENTIFICATION OF AVAILABLE RESOURCES AND GAPS

1. Do any of the services listed in C-5 address delinquency, specifically the delinquent offense you identified as the most concerning?

- a. If yes: What could you implement to help the services be more efficient?

Each of these programs works with our youth and are aware of the synthetic marijuana use and harmful effects on our juveniles. A youth shelter would provide a safe and sober home environment with sober and caring adult supervision.

- b. If no: What are possible services that could address the gap in appropriate services? I am answering both yes and no. We need more qualified mental health professionals (have only 1); need more substance abuse counselors; need culturally relevant treatment for youth; need parental accountability and involvement. Parental accountability and involvement will be a component of a juvenile diversion program.

2. Explain which evidence-based program, non-evidence-based program, or service would be implemented based on the gaps or lack of resources.

Tribal court (drug court/dui court staff) recently underwent Family Based Therapy training for use within our drug court and dui court. The goal is to expand family based to all probationers, both adult and juvenile.

3. What stage of the juvenile justice system would your service target?

Lower Brule Sioux Tribe being selected to participate in *Juvenile Justice for Tribal Youth: A Policy Academy Initiative*. This initiative, jointly funded by the Substance Abuse and Mental Health Services Administration and the John D. and Catherine T. MacArthur Foundation, will run through December 31, 2015. Throughout this initiative, technical assistance will be provided to participating tribes to guide and support the implementation of innovative approaches to front-end diversion of youth with behavioral health disorders to culturally relevant community-based services. Lower Brule is one of four Tribes selected. A youth shelter has been a topic of discussion at the two workshops with the other tribes. A shelter is not just a Lower Brule issue; it is an issue in Indian Country.

4. When and where would your service be located? Example: On weekends at the community center

The youth shelter will be in the Lower Brule community, available 24/7 throughout the year, once open.

- a. If no: What are possible services that could address the gap in appropriate services?



## E. STRATEGY FOR IMPLEMENTATION

Describe your strategy for implementing the chosen service.

Lower Brule Tribal Court will take the lead in locating an expert in juvenile law (with assistance from the state) to develop policies and procedures for operating a youth shelter. Tribal council has expressed interest in a youth shelter, but wants it done correctly. That is, no opening the doors until the program has policies and proposed budget for operating costs. The consultant will come to Lower Brule for an initial visit of the proposed building, visit with Tribal Council and community members to determine the community's vision for a shelter.

What collaboration efforts would need to take place to successfully implement your chosen service?

Lower Brule is a small community. Each program involved in this endeavor has communication with the other program, typically about a juvenile or a juvenile's parent or family issues. Youth that are in the legal system for delinquent conduct are already on the radar with Lower Brule Counseling Services for evaluations and treatment. These youth are referred to Boys and Girls Club for activity options (other than drugs, alcohol, sex or violence). Each program has to work together for the best of the community and we understand the challenges each program faces....we support each other and our efforts. Programs collaborate, cooperate and communicate to ensure maximum results with limited resources.



# 2013 Facility Admissions – Secure Juvenile Facility

Secure Juvenile Facility: Lower Brule Juvenile Detention Facility

Note: Facility admission information should come from the facility that admits offenders. If a Tribe does not have a facility, they should make a note of what facility is used and what entity runs it. Admissions to facilities run by an entity other than the Tribe should not be reported.

	Male	Female	Total
Number of juveniles that are admitted to the facility that have not committed a delinquent or status offense.*	0	0	0
<i>Nonoffender: A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes, for reasons other than legally prohibited conduct of the juvenile (28 CFR 31.304(i)). These cases are referred to by many names including Children in Need of Services (CHINS), Children in Protective Services (CHIPS), and Families in Need of Services (FINS).</i>			
Number of juveniles that are admitted to the facility that have committed a status offense.	0	0	0
<i>Status Offender: A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult (28 CFR 31.304(h)). The following are examples of status offenses: Truancy, Violations of curfew, Unruly, Runaway. Underage possession and/or consumption of tobacco products. Underage possession and/or consumption of alcohol. This offense is always considered a status offense, even though State or local law may consider it a delinquent offense.</i>			
Number of juveniles held for status offenses that were in the facility for less than 24 hours.	0	0	0
Number of status offenders held under 24 hours when excluding weekends and holidays.	0	0	0
<i>Number of juveniles held for status offenses that were in the facility for less than 24 hours when excluding weekends and holidays. Juveniles held over a typical weekend would fall into this category if they were held for less than 72 hours. Juveniles held over a three-day weekend would fall into this category if they were held for less than 96 hours.</i>			
Number of status offenders held over 24 hours when excluding weekends and holidays*	0	0	0
<i>Number of juveniles held for status offenses that were in the facility for more than 24 hours when excluding weekends and holidays. Juveniles held over a typical weekend would fall into this category if they were held for more than 72 hours. Juveniles held over a three-day weekend would fall into this category if they were held for more than 96 hours.</i>			
Number of status offenders held over 24 that meet the valid court order exception	0	0	0
<i>Number of juveniles held over 24 that meet the valid court order exception. In order to claim a valid court order exception, the facility must have notified an appropriate agency of the violation, an assessment of the juvenile's needs must be done within 24 hours of admission, and within 48 hours of the admission the assessment must be presented to the courts and a determination must be made as to whether there is reasonable cause to believe that the juvenile violated the court order.</i>			
Number of juveniles that are admitted to the facility that have committed a delinquent offense.	112	91	203
<i>Delinquent offender: A juvenile offender who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult (28 CFR 31.304(g)).</i>			
Total Number of juveniles admitted to detention	112	91	203

In



## Lower Brule Sioux Tribal Court Juvenile Diversion

### Strategic Plan – 2014-2017

*Vision: Heal our broken youth to become the future leaders and create model citizens who contribute back to the tribe.*

#### *Target Population:*

- Juveniles age 10-17; AND
- Juveniles who have mental health or substance abuse issues; or first time offenders; AND
- Juveniles who are pending adjudication or who are alleged to have committed a delinquent act; AND
- Juveniles who have at least one parent, legal guardian or custodian who is agreeable to the juvenile and themselves participating in the diversion program; AND
- Ineligible juveniles include those charged with violent offenses including but not limited to weapons offenses, aggravated assault, rape, and-or gang-related offenses.

#### Goal #1: Create an early diversion program

We will do this by:

- Developing policies and procedures for the diversion program
- Drafting legal forms and documents for use in the diversion process
- Obtaining and utilizing MAYSI screening software for youth
- Employing a juvenile diversion officer to supervise youth



**Goal #2: Provide meaningful access and increased access to behavioral health and substance abuse providers for tribal youth and families.**

We will do this by:

- Identifying all accessible behavioral health and substance abuse providers in the area
- Implementing evidence-based family therapy into local counseling services
- Screening youth for mental health and substance abuse needs
- Providing transportation to mental health and substance abuse appointments on and off the reservation
- Ensuring all diverted youth and families are provided with access to applications for Medicaid/CHIPS if not already covered
- LBST will work with Avera Health to provide education on coding, billing and management oversight for services
- Improve education surrounding the Affordable Care Act, Medicaid Reimbursement, 3<sup>rd</sup> party insurance and IHS providers, etc.

**Goal #3: Integrate services across systems and involve families**

We will do this by:

- Identifying all community resources, tribal departments, programs, and service providers on & off the reservation
- Hosting collaborative meetings to develop partnerships and establish a current list of services and programs for tribal youth and their families
- Incorporating at least monthly meetings with juvenile diversion participants, their parent/guardian/custodian and the juvenile diversion officer



- Writing a series of newspaper articles on the juvenile diversion program
- Developing MOU's/MOA's with schools, BIA law enforcement, etc. when necessary to establish responsibilities and guidelines

#### **Goal #4: Program Sustainability and Data Tracking**

- Identify data that needs to be tracked to assist with program sustainability
- Identify programs collecting data relevant to our own sustainability
- Identify an appropriate data tracking mechanism to collect our own data and cross-reference data from outside sources
- Identify alternative sources for funding



# State of South Dakota Council of Juvenile Services

## State Fiscal Year 2014 Annual Report **DRAFT**

### Council of Juvenile Services Members at the close of State Fiscal Year (SFY) 2014:

Carol Twedt, Chair  
Sheriff Mike Leidholt, Vice Chair  
Nancy Allard  
Becca Bedard  
Kim Cournoyer  
Judge Jeff Davis  
Victor Erlacher  
Arlene Ham Burr  
Elizabeth Heidelberger  
Doug Herrmann  
Judge Karen Jeffries  
Jacob Kabrud  
Aaron McGowan  
Sara McGregor-Okroi  
Beth O'Toole  
Betty Oldenkamp  
Lyndon Overweg  
Marissa Surrounded  
Grant Walker  
Virgena Wieseler

The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author and do not necessarily reflect the views of the Department of Justice.

This project was supported by Award No.2011-JF-FX-0019 awarded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs.

250 copies of this report were published at a cost of \$1.63 per copy.



### Message from the Chairperson:

The Council of Juvenile Services (Council) oversees the State's participation in the Juvenile Justice and Delinquency Prevention Act Formula Grants Program and is required to make an annual report to the Governor and Legislature on the State's progress in meeting the requirements of the Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974, as amended. The Council is also responsible, pursuant to SDCL 1-15-30(8), for making an annual report to the Governor, Chief Justice, and the Legislature on the status of Children in Need of Supervision (CHINS). This report serves to meet both of these reporting requirements.

The Council has worked diligently over the past eleven years to enhance juvenile justice services in the state and prides itself in the following value statements which guide their work in assisting the State in meeting the requirements of the Formula Grants Program and in making improvements to South Dakota's juvenile justice system. The Council of Juvenile Services values that all children shall:

- Receive developmentally and culturally appropriate services.
- Have the same access to needed services regardless of income, geography, race, or jurisdiction.
- Have the right to be safe in the community in which they live.
- Receive evidence-based services in the least restrictive community-based environment available.
- Demonstrate accountability in the development of a plan for the youth along with parents, communities, and the juvenile justice system
- Receive early intervention services that are evidence-based.
- Receive services that are family-based and family-centered.
- Receive equal justice regardless of race, which is essential to effectively address Disproportionate Minority Contact.
- Have access to early and effective legal representation, including an assessment of competence and a timely and just legal process.

The following pages of the Annual Report are a condensed summary of the accomplishments over the past year. I believe you will be proud of the critical and relevant work that has been done in our State since South Dakota came into compliance with the JJDP in 2003. Furthermore, Federal Fiscal Year 2014 Formula Grant Application was submitted and approved by the Office of Juvenile Justice and Delinquency Prevention. This grant will provide \$393,667 for juvenile justice planning and projects in South Dakota for the next few years. If you find you would like more information regarding the Council's achievements over the past years or regarding the Formula Grant Program, please review the comprehensive Three-Year Plan located electronically on the Department of Corrections webpage: [doc.sd.gov](http://doc.sd.gov).

I thank you for your support and I look forward to working with you on behalf of South Dakota's children.

Very Best Regards,

*Carol Twedt*

Carol Twedt, Chairperson



# Formula Grant Expenditures and Programs

The table below outlines the amount of federal fiscal year (FFY) 2010 and FFY 2011 Formula Grant funds that were utilized during SFY 2014 and the number of youths served by the funds in each program area.

DRAFT

Program Area	SFY2014	Youths Served
Planning and Administration	\$25,873.05	N/A
Council of Juvenile Services	\$11,888.46	N/A
Compliance Monitoring	\$12,430.27	N/A
Deinstitutionalization of Status Offenders (DSO)/ Sight and Sound Separation/ Jail Removal	\$30,784.87	165
Native American Programs	\$101,355.64	773
Alternatives to Detention	\$149,358.79	442
Delinquency Prevention	\$36,516.67	N/A
Disproportionate Minority Contact (DMC)	\$109,101.86	18
<b>Total</b>	<b>\$477,309.61</b>	<b>1,398</b>

## Planning and Administration

As the state agency designated by the Governor to administer juvenile justice funding, the staff of the South Dakota Department of Corrections (DOC) provides support for the Council and its committees, administers and monitors juvenile justice grant funds, collects juvenile justice system data, and monitors facilities for compliance with the core requirements of the JJDP.

## Council of Juvenile Services

The Council was created by Senate Bill 8 in the 2003 Legislature (codified as SDCL 1-15-30) to fulfill the responsibilities of a state advisory group (SAG) as directed by Section 223(a)(3) of the JJDP. SFY2014 represents the eleventh year of the State's renewed participation in the Formula Grants Program.

The Council reviews juvenile justice policy, advises and advocates on juvenile justice issues, and strives to keep South Dakota in compliance with the requirements of the Formula Grant Program authorized by the federal JJDP. The Council meets quarterly and is comprised of members who are appointed by and serve at the pleasure of the Governor. SDCL 1-15-30 outlines the responsibilities of the Council. In SFY2014, the Council met three times and approved the Formula Grant State Three-Year Plan Update Application for FFY2014. The State Three-Year Plan can be found on the DOC grant webpage at [doc.sd.gov/about/grants](http://doc.sd.gov/about/grants).

The Council also provides funding for the Juvenile Justice Tribal Advisory Group (TAG). The TAG provides Native American perspective and expertise to assist the Council in meeting the requirements of the JJDP and provides communication between the Tribes and the Council to assist Tribes in their juvenile justice initiatives. Representatives from all nine Tribes of South Dakota and representatives from various agencies that work with the Tribes participate in the TAG meetings. In SFY2014, TAG met a total of two times.



# Compliance with the Core Requirements

The JJDPa, as amended, establishes four core requirements with which participating states and territories must comply in order to receive juvenile justice funding under the JJDPa:

**DRAFT**

- 1) **Deinstitutionalization of Status Offenders (DSO)** - Refers to the removal of status offenders and non-offenders from secure juvenile detention and correctional facilities, jails, and lockups for adult offenders. Juveniles charged with status offenses, offenses which would not be criminal if committed by an adult, should not be placed in secure detention or correctional facilities. Abused, dependent, or neglected youths may never be held securely.
- 2) **Sight and Sound Separation** - Refers to providing separation between adults and juveniles in secure settings. During the temporary period of time in which juveniles may be held in an adult jail or lockup for processing, they need to be kept sight and sound separated from adult offenders.
- 3) **Jail Removal** - Refers to the removal of juveniles from adult jails and lockups. Juvenile offenders shall not be securely detained in adult jails or police lockups.
- 4) **Disproportionate Minority Contact (DMC)** - Refers to the reduction of minority over-representation where it exists within the juvenile justice system. States must address over-representation of minority youths at different decision points of contact within the juvenile justice system. The DMC process is made up of identifying the existence/extent of disproportionality, accessing data about DMC, intervening to reduce DMC, evaluating how DMC responds to the interventions, and monitoring trends in DMC within and across jurisdictions.

Incidents of noncompliance have decreased significantly since calendar year (CY) 2002. In CY2013, there were six DSO violations which is a 94.8% decrease since CY2002. There were no violations in Jail Removal and Separation resulting in a 100% decrease.

Percentage Change of Reported Compliance Monitoring Violations			
Calendar Year (CY)	DSO Violations	Jail Removal Violations	Separation Violations
2002	115	291	9
2013	6	0	0
Percent Change	94.8%	100%	100%

## Compliance Monitoring, DSO, Jail Removal, and Separation

A compliance monitoring system has been developed and implemented to monitor the State's compliance with the core requirements of the Formula Grants Program. This system classifies facilities where youths can be held pursuant to court authority, collects admission data from secure facilities, conducts site visits, and provides technical assistance.

In CY2013, South Dakota's DSO violation rate was 2.96/100,000 youths, which places the State in compliance with de minimis exceptions. A DSO violation rate of 29.5 or higher would mean that the State would be noncompliant with the DSO requirement. There were no jail removal or separation violations in CY2013 resulting in a finding of full compliance for both requirements.

Meeting the temporary custody needs of juveniles consistent with the JJDPa can be a financial burden on county governments. The Council authorized the development of a reimbursement system utilizing Formula Grant funds to provide financial support to counties. Since 2005, a reimbursement system has been in place to provide financial support to counties or arresting entities that lack appropriate temporary custody options for youth. It has been the goal of the Council to work with counties to eventually decrease their dependence on the reimbursement program and to help them develop alternatives to detention and alternative funding sources. During SFY2014, a total of \$30,784.87 was reimbursed to eight local governments for services rendered to a total of 165 youth.



# Children in Need of Supervision

Children in Need of Supervision (CHINS) are low risk and high need youths who historically were often placed in secure detention or committed to the DOC due to a lack of appropriate alternatives. There is concern whether commitment to the DOC is the appropriate manner in which to provide residential services to CHINS. Throughout the state, a team serves to develop placement plans to use the least restrictive options for a CHINS committed to the DOC. The Council recognized the importance of service provisions to CHINS and in conjunction with the Unified Judicial System, funds the Probation Support Program to provide access to needed services for youths on probation supervision.

**DRAFT**

The following chart was obtained from the DOC and identifies CHINS commitments to the DOC during SFY2005 through SFY2014. The chart shows that there has been a significant decrease in the commitment of CHINS following efforts to bring the state into compliance with the JJDP.



# Children in the Juvenile Justice System

South Dakota's juvenile justice system impacts thousands of youths and their families annually. The table to the right provides a summary of juvenile justice, child protection activities, and alcohol and drug services as referenced in the 2010-2014 South Dakota Kids Count Factbook Publications and provided by the Department of Corrections.

	SFY10	SFY11	SFY12	SFY13	SFY14
<b>Adjudicated Action</b>	6,129	5,525	4,868	4,533	4,311
<b>Non-Adjudicated Action</b>	1,074	984	1,090	828	1,013
<b>New DOC Commitments*</b>	350	304	284	276	240
<b>Child Abuse &amp; Neglect Initial Assessments (children)</b>	7,243	7,282	6,820	4,899	4,736
<b>Children Requiring a Safety Response</b>	2,124	2,149	1,927	1,541	1,458
<b>Alcohol and Drug (juvenile admission to treatment) **</b>	1,605	1,375	1,388	1,083	1,069

\*DOC commitment data provided by the DOC from Juvenile COMS data system implemented on 6/23/2011. Data only accounts for the number of new juveniles who receive a disposition of commitment to DOC. These numbers do not include youths already under the jurisdiction of the DOC.

**Adjudicated Action-** Action that occurs as the result of the filing of a CHINS or delinquent petition in formal court. These actions include petition sustained, petition not sustained, petition dismissed, suspended imposition of adjudication, transfer to adult court, and interstate compact transfer to South Dakota.

**Non-Adjudicated Action-** Action that is referred to another agency or handled by court services as an informal diversion as an alternative to adjudication. The non-adjudicatory actions do not include those diversions initiated by State's Attorneys.



# Native American Programs

The Formula Grants Program requires participating states to pass on a specified portion of their funds to Native American Tribes who provide their own law enforcement. The amount South Dakota was required to pass on in SFY2014 is \$64,117. States may allocate additional funds beyond the minimum and may also provide funds to Tribes which do not have law enforcement responsibilities but which conduct other juvenile justice functions.

**DRAFT**

The Council exceeded the minimum pass-through amount set by the Office of Juvenile Justice and Delinquency Prevention. The Council allocated \$100,000 in SFY2014 for three \$25,000 subgrants supporting Cheyenne River Sioux Tribe, Sisseton Wahpeton-Oyate, and Standing Rock Sioux Tribe to provide a juvenile probation officer and one \$25,000 subgrant for Lower Brule Sioux Tribe intended for Juvenile Talking Circles for male and female probationers.

## Alternatives to Detention and Delinquency Prevention

In 2009, the Council determined that it was in the best interest of the youth of South Dakota to pursue strategies that promote the examination of local juvenile justice systems and help them coordinate a comprehensive continuum of system services and alternatives to secure detention.

The Juvenile Detention Alternatives Initiative (JDAI), developed and supported by the Annie E. Casey Foundation, was identified as the model through which these goals would be undertaken. The Council identified Minnehaha and Pennington Counties as alternative to detention pilot sites.

In SFY2014, JDAI Coordinators, along with the Minnehaha and Pennington County Steering Committees, continued to implement alternatives to detention to decrease the number of South Dakota youths being held in secure detention. With the implementation of Alternatives to Detention in Minnehaha and Pennington Counties, both sites have seen significant changes in their detention numbers. The table at the bottom of this page summarizes information from the 2014 Results Report as submitted to the Annie E. Casey Foundation which contains recent data from CY2013 and baseline data from CY2010.

At the close of SFY2013, the Council approved for JDAI to be implemented under the Unified Judicial System in South Dakota. Services funded under the Council ran through December, 2013. Starting in SFY2014, the Council began its focus on implementing prevention and early intervention programs. Following a planning grant and application process, three sites were chosen to begin implementing delinquency prevention programs in their school systems starting in the fall of 2014. The three sites of Aberdeen, Watertown, and Sturgis are in the process of implementing the evidence based programs of Project SUCCESS and Positive Action.

JDAI 2014 Results Report		Average Daily Population		Annual Admissions		Average Length of Stay (In Days)		DOC Commits	
		Total	Youths of Color	Total	Youths of Color	Total	Youths of Color	Total	Youths of Color
Minnehaha County	Baseline (2010)*	35.37	17.24	1080	504	12.08	9.78	83	40
	Recent (2013)	17.23	12.99	642	410	11.36	11.85	52	31
	Change in Number	-18.14	-4.25	-438	-94	-0.72	2.07	-31	-9
	% Change	-51.3%	-24.7%	-40.6%	-18.7%	-6.0%	21.2%	-37.3%	-22.5%
Pennington County	Baseline (2010)	35.50	23.60	740	468	17.50	18.40	56	43
	Recent (2013)	13.30	9.23	252	182	21.03	24.92	39	27
	Change in Number	-22.20	-14.37	-488	-286	3.53	6.52	-17	-16
	% Change	-62.5%	-60.9%	-65.9%	-61.1%	20.2%	35.4%	-30.4%	-37.2%

Minnehaha County updated the format for data collection and equation for collecting data. Due to this the baseline numbers changed and are not consistent with previous reports.





# Disproportionate Minority Contact

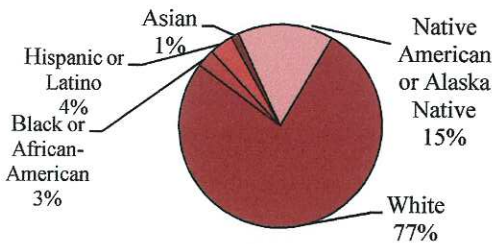
As a part of the Disproportionate Minority Contact (DMC) requirement, states are responsible for ongoing monitoring of the juvenile justice system for overrepresentation of minority youths for any group that comprises at least 1% of a jurisdiction's juvenile population. The staff of the Formula Grants Program is responsible for compiling the DMC data, presenting DMC findings to stakeholders, developing plans to address DMC within the state, overseeing DMC awards, and working with local entities to develop plans for DMC reduction.

In SFY2014, the Council utilized realigned funding under the DMC Program to support Alternatives to Detention projects that focused specifically on strategies for minority youths in Minnehaha and Pennington Counties.

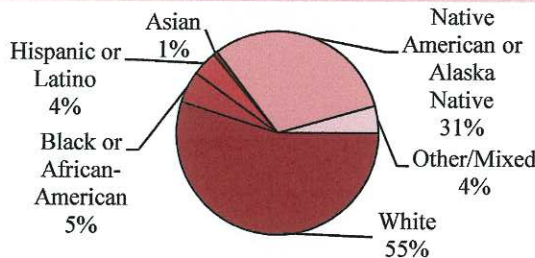
The most recent DMC data compiled to date reflects the measurement of juvenile justice system activity from CY2011. The stages with the largest disparities include arrest, detention, and commitment to the Department of Corrections. Minority youths, primarily Native American, are over-represented at most stages of South Dakota's juvenile justice system. In CY2011, minority youths made up 45% of those arrested\*, 52% of those in detention, and 48% new DOC commitments while only making up 23% of the population.

The following charts summarize breakdown by race at the stages of the state juvenile justice system as detailed in the 2014 Formula Grant Application. When looking at the offenses for youths committed to the DOC during CY2011, youth Probation Violations (24.8% for all and 24.1% for Native American) account for the largest number of commitments. When looking at the offenses for youths arrested by law enforcement during CY2011, Property Crimes (25.6%) have the largest number of offenses for all youths while Alcohol Offenses (23.4%) have the largest number for Native American Youths.

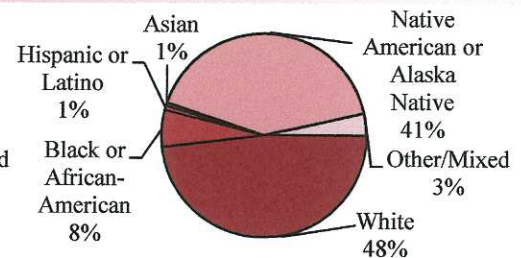
**Population**



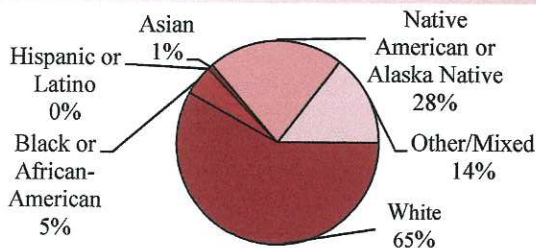
**Arrest\***



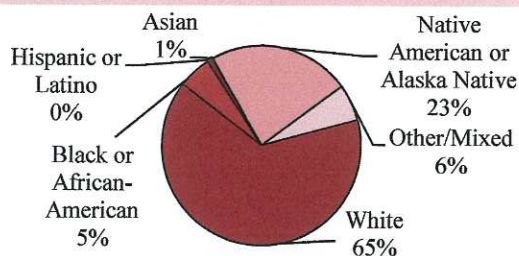
**Detention**



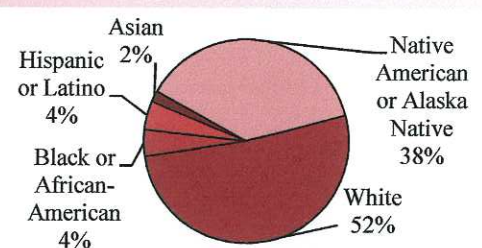
**Adjudication**



**Probation**



**DOC Commit**



**Juvenile DOC Commitments and Juvenile Arrests in Calendar Year 2011**

Crime Category	Person	Property	Sex	Drug	Alcohol	Status (except alcohol)	Probation Violation	Public Order	Other
<b>DOC Commitments-Accounts for Multiple Crimes</b>									
All	7.4%	24.1%	2.4%	16.0%	4.6%	10.8%	24.8%	7.0%	2.2%
Native American	8.2%	23.3%	2.0%	9.4%	8.2%	12.7%	24.1%	9.4%	2.0%
White	6.1%	26.6%	2.4%	19.3%	2.7%	8.8%	25.9%	5.9%	1.7%
<b>Arrest*-Accounts for Most Serious Crimes</b>									
All	8.0%	25.6%	0.6%	13.5%	19.9%	14.2%	NA	6.4%	11.7%
Native American	10.1%	22.5%	0.5%	12.2%	23.4%	15.3%	NA	6.0%	10.0%
White	6.6%	26.2%	0.7%	14.1%	18.9%	13.3%	NA	6.7%	13.6%



# Federal Fiscal Year 2011 Formula Grant Allocation

Balance as of 12/01/2014

Extended End Date of 9/30/2015

<u>Category</u>	FFY11 Budget After Amendment in January to Remove ATD	FFY11 Expended to 12/01/2014	FFY11 Current Balance 12/01/2014	Projected Expenses 12/01/2014- 3/31/2015	Projected 3/31/2015 Balance
Administration	\$60,000	\$20,195	\$39,805	\$8,200	\$31,605
SAG	\$30,000	\$11,451	\$18,549	\$2,000	\$16,549
Jail Removal/DSO/S&S (County Reimbursement)	\$60,000	\$33,897	\$26,103	\$13,103	\$13,000
Compliance	\$35,000	\$24,855	\$10,145	\$8,000	\$2,145
DMC	\$140,000	\$71,023	\$68,977	\$55,000	\$13,977
Native American Programs	\$75,000	\$84,298	-\$9,298	\$20,000	-\$29,298
Delinquency Prevention	\$200,000	\$63,299	\$136,701	\$40,000	\$96,701
Total	\$600,000	\$309,017	\$290,983	\$146,303	\$144,680



## **A State Priority Juvenile Justice Needs/Problem Statements**

### **1). Value Statements**

South Dakota's Council of Juvenile Services has developed and adopted the following core values that it plans to use as a guide for purposes of future juvenile justice planning and development within the state:

- All children and adolescents shall receive developmentally and culturally appropriate services.
- All children shall have the same access to needed services regardless of income, geography, race, or jurisdiction.
- All children shall have the right to be safe in the community in which they live.
- All children shall receive evidence-based services in the least restrictive community-based environment available.
- All children, parents, communities, and the juvenile justice system shall demonstrate accountability in the development of a plan for the youth.
- All children shall receive early intervention services that are evidence-based.
- All children shall receive services that are family-based and family-centered.
- All children shall receive equal justice regardless of race, which is essential to effectively address Disproportionate Minority Contact.
- All children shall have access to early and effective legal representation, including an assessment of competence and a timely and just legal process.



## 2). Problem Statements

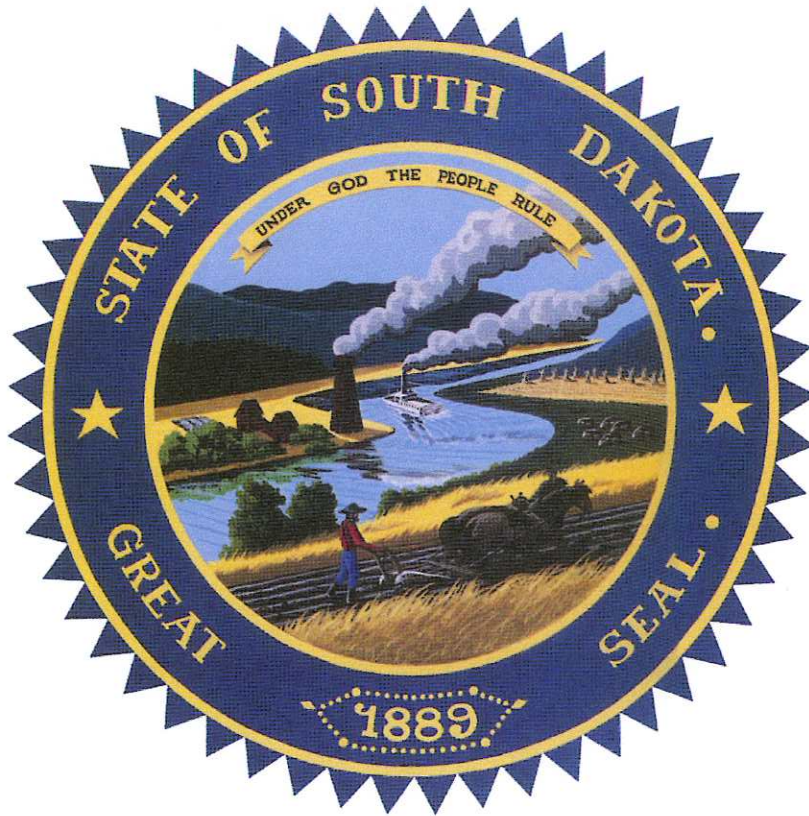
The Council identified the following problems to be addressed through formula grant funds and activities during the period covered by this program plan (2012-2014):

- Monitoring and maintaining compliance with deinstitutionalization of status offender, jail removal, and sight and sound separation requirements of the Act, as amended, is critical for continued juvenile justice system improvement.
  - Associated with the program purpose areas of Compliance Monitoring, DSO, Jail Removal, and Separation
- Disproportionate Minority Contact – Minority youth are over-represented at most stages of South Dakota's juvenile justice system.
  - Associated with the DMC program purpose area
- The Native American Tribal juvenile justice systems have a critical lack of basic resources to address the needs of youth coming before the Tribal courts, thus compromising due process and outcomes.
  - Associated with Indian Tribal Programs program purpose area and Native American Pass-Through dollars
- Because South Dakota has a high incarceration rate of detention per capita, there is a need to implement prevention programs and continue and expand alternatives to detention, commitment to the Department of Corrections, and out-of-home placement for:
  - At Risk Youth
  - Young Offenders
  - CHINS
  - Other Offenders with needs that should be met in communities
  - Associated with program purpose area Delinquency Prevention



# **FINAL REPORT**

November 2014



## **JUVENILE JUSTICE REINVESTMENT INITIATIVE WORK GROUP**



# **South Dakota Juvenile Justice Reinvestment Initiative Work Group**

## **Final Report**

### **November 2014**

#### **SUMMARY<sup>1</sup>**

After a successful review of the criminal justice system and the early success of the Public Safety Improvement Act of 2013, Governor Dennis Daugaard and Chief Justice David Gilbertson initiated an assessment of the state's performance in juvenile justice. In light of research demonstrating the high cost and low return of residential placements for many youth and the importance of effective community options, the state sought to understand why South Dakota commits a high rate of juvenile offenders to costly residential placements, and 45 percent of youth released from those facilities return to custody within three years of their release.<sup>2</sup>

In June 2014, Governor Daugaard, Chief Justice Gilbertson, President Pro Tempore Corey Brown and Speaker Brian Gosch launched the Juvenile Justice Reinvestment Initiative (JJRI) to study the juvenile justice system and develop policy recommendations that advance three goals:

- increase public safety by improving outcomes for youth and families and reducing juvenile recidivism;
- effectively hold juvenile offenders more accountable; and
- reduce juvenile justice costs by investing in proven community-based practices and preserving residential facilities<sup>3</sup> for serious offenders.

Over the past six months, the work group conducted extensive analysis of data and engaged more than 200 juvenile justice stakeholders across the state. The work group found that courts at times remove youth from their homes and place them in residential programs not because they think such sanctions are appropriate for purposes of punishment, incapacitation or rehabilitation but because adequate community-based options are not available at the level needed.

Major findings of the work group include:

- About 75 percent of commitments to the Department of Corrections (DOC) are for misdemeanors, Children in Need of Supervision (CHINS) violations, and probation violations.
- Admissions to probation are increasingly lower risk. Low-risk admissions increased from 49 percent in 2004 to 62 percent in 2013.
- Fewer youth are being admitted to probation and DOC, but the length of time youth spend out of home, committed, or on probation has increased over the past 10 years.

---

<sup>1</sup> Unless otherwise cited, the analyses in this report were conducted for the Juvenile Justice Reinvestment Initiative Working Group by The Pew Charitable Trusts using data provided by the South Dakota Department of Corrections or the Unified Judicial System.

<sup>2</sup> South Dakota DOC Juvenile Recidivism Summary Report 2012. Recidivism is defined as any return to DOC out-of-home placement within 3 years of release from an out-of-home placement at DOC. Does not include adjudications or convictions that do not result in return to the Department's out-of-home custody.

<sup>3</sup> In the context of this report 'residential facilities' and 'out-of-home placements' refer to settings in which youth committed to the custody of the Department of Corrections may reside prior to being placed on aftercare. These settings include STAR Academy, private group care, residential treatment centers, intensive residential treatment centers, non-DOC paid programs, and Department of Human Services' facilities.



- Evidence-based interventions for juvenile offenders are not sufficiently available in the community.
- Pre-court diversion is used inconsistently across the state.

The work group developed 12 recommendations that will focus expensive residential placements on youth who are a public safety risk; prevent deeper involvement in the juvenile justice system for youth committing lower level offenses; improve outcomes by expanding access to proven community-based interventions; and ensure quality and sustainability of reforms. The reforms are expected to change the trajectory of the DOC out-of-home population by reducing the projected number of youth in DOC public and private out-of-home placements 64 percent by 2020. The work group expects this reduction to create cost savings to be invested into effective community-based interventions.

## **THE SOUTH DAKOTA JUVENILE JUSTICE REINVESTMENT INITIATIVE WORK GROUP**

In 2012-2013, state leaders launched a comprehensive review of South Dakota's adult sentencing and corrections system with the goal of increasing the public safety return on each taxpayer dollar. This analysis resulted in the passage of a set of reforms known as the Public Safety Improvement Act ("The Act"). The Act was projected to reduce prison growth by more than 700 beds over 10 years, averting \$207 million in construction and operating costs, while improving public safety through policies, practices, and programs designed to increase offender accountability and reduce recidivism. Since the Act's effective dates, prison population growth has been successfully contained and the revolving door of probation and parole revocations to prison has been slowed as successful completions of parole supervision are increasing and the percentage of probationers revoked to prison is dropping.<sup>4</sup>

Turning to the juvenile system, state leaders quickly recognized that South Dakota was an outlier nationally, with the most recent available figures showing the state had the second highest commitment rate<sup>5</sup> in the country (385 per 100,000 youth) in 2011. While South Dakota has reduced the number of juveniles committed to the DOC, this reduction did not keep pace with the national decline from 1997 to 2011 (2 percent in South Dakota compared to the national average of 48 percent).<sup>6</sup> The state's high commitment rate is not explained by a higher rate of violent juvenile arrests: South Dakota's juvenile violent crime arrest rate of 71 per 100,000 was roughly one-third the national average in 2011.<sup>7</sup> The state had budgeted \$34 million in fiscal year 2014, spending anywhere from \$41,000 to \$144,000 per bed annually for the committed juvenile population. Recidivism rates were improving, but the most recent 3-year measure showed more than four in 10 youth returning to the DOC within three years of release. Specifically, of the youth released in 2005, 53 percent returned to DOC custody in three years, whereas 45 percent of the youth released in 2010 returned within three years.

<sup>4</sup> 2014 Annual Report. South Dakota Public Safety Improvement Act Oversight Council.

<sup>5</sup> The commitment rate is the rate of juveniles placed in residential facilities through commitment to the state per 100,000 juveniles ages 10 through 17.

<sup>6</sup> Melissa Sickmund et al., "Easy Access to the Census of Juveniles in Residential Placement: 1997-2011," (Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, 2013), accessed 8/7/14, <http://www.ojjdp.gov/ojstatbb/ezacirp/>;

<sup>7</sup> Charles Puzzanchera and Wei Kang, "Easy Access to FBI Arrest Statistics: 1994-2011," (Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, 2014), accessed 8/7/14, <http://www.ojjdp.gov/ojstatbb/ezaucr/>.



Aware of research indicating that, for many youth, lengthy out-of-home placements fail to produce better outcomes than alternatives, cost much more, and in certain circumstances can increase recidivism,<sup>8</sup> state leadership decided to apply the same policy and performance review process to the state's juvenile justice system that had successfully been applied to the adult criminal justice system. In June 2014, Governor Dugaard and Chief Justice Gilbertson asked a bipartisan, interbranch group of 17 individuals representing counties and state and local government to participate on the Juvenile Justice Reinvestment Initiative (JJRI) Work Group. The group was charged with examining the state's juvenile justice system and developing policy options that would:

- increase public safety by improving outcomes for youth and families and reducing juvenile recidivism;
- effectively hold juvenile offenders more accountable; and,
- reduce juvenile justice costs by investing in proven community-based practices and preserving residential facilities for serious offenders.

Over the course of seven meetings, the JJRI Work Group analyzed juvenile arrest, disposition, probation, out-of-home placement, and aftercare data, and reviewed research on effective practices in juvenile justice and on what works to reduce delinquency, including empirical, peer-reviewed studies about effective community-based practices and the use of residential treatment. Guided by data and research, work group members formed subgroups to identify viable policy options for South Dakota in three areas: (1) expanded pre-court and alternative disposition opportunities, (2) increased access to high-quality community-based interventions, and (3) focusing commitments and out-of-home placements on serious offenders.

During the summer and early fall, stakeholder meetings were held across the state with more than 200 individuals, including system-involved youth, parents of committed youth, victim advocates, Native American stakeholders, states' attorneys, judges, law enforcement, educators, county commissioners, youth care providers, defense attorneys, court services officers, juvenile corrections agents, and teen court representatives. Input from these stakeholders guided work group members and informed their inquiry into the juvenile justice system.

---

<sup>8</sup> Edward P. Mulvey, et al., "Trajectories of desistance and continuity in antisocial behavior following court adjudication among serious adolescent offenders," *Development & Psychopathology* 22 (2010): 453–475; Daniel S. Nagin, Francis T. Cullen, and Cheryl Lero Jonson, "Imprisonment and reoffending," in *Crime and Justice: A review of research*, ed. Michael Tonry. (Chicago: University of Chicago Press, 2009), 115–200; Patrice Villettaz, Martin Killias, and Isabel Zoder, "The effects of custodial vs. noncustodial sentences on re-offending: A systematic review of the state of knowledge," (Oslo, Norway: The Campbell Collaboration, 2006); Christopher T. Lowenkamp and Edward J. Latessa, "Evaluation of Ohio's RECLAIM funded programs, community corrections facilities, and DYS facilities," (Cincinnati, OH: University of Cincinnati, 2005); Paula Smith, Claire Goggin, and Paul Gendreau, "The effects of prison sentences and intermediate sanctions on recidivism: General effects and individual differences," (Ottawa, Ontario, Canada: Solicitor General of Canada, 2002). Thomas A. Loughran, et al., "Estimating a dose-response relationship between length of stay and future recidivism in serious juvenile offenders," *Criminology* 47, no. 3 (2009): 699–740



## MAJOR FINDINGS

The work group's analysis of juvenile populations in the custody of the DOC and under the supervision of the Unified Judicial System (UJS) led to a set of key findings that were subsequently used to develop policy recommendations. The work group found that:

- (1) pre-court diversion is used inconsistently across the state,
- (2) most DOC commitments are for misdemeanor offenses, CHINS violations, and probation violations,
- (3) fewer youth are being committed to DOC, but they are staying longer,
- (4) admissions to probation are declining but increasingly lower risk,
- (5) length of probation supervision is increasing, and
- (6) evidence-based interventions for juvenile offenders are not sufficiently available in the community.

### ***(1) Pre-court diversion is used inconsistently across the state.***

Very little data is available on diversion statewide, but through a statutory review, stakeholder input, and their own knowledge of the system, work group members found inconsistent use of diversion at the front end of the system. Some counties have well-established diversion programs that are heavily utilized by state's attorneys, some use the UJS diversion program, and others do not use it at all. The work group also found no standardized criteria across the state that define which youth are appropriate for referral to diversion programs.

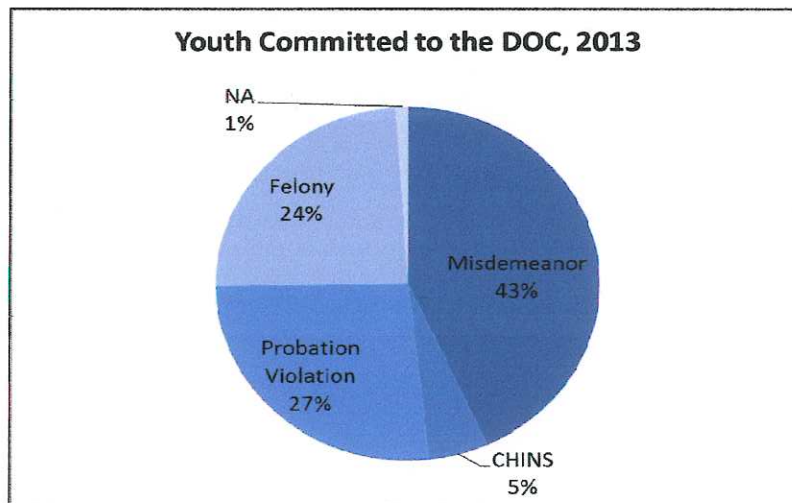
Work group members reviewed research indicating that diversion results in better outcomes than formal court processing for certain youth.<sup>9</sup> More consistent use of diversion could divert greater numbers of youth from formal system involvement.

---

<sup>9</sup> Michael Baglivio, "Briefing Report: The Risk Principle. Bureau of Research and Planning," (Florida Department of Juvenile Justice, 2013). Anthony Petrosino, Carolyn Turpin-Petrosino, and Sarah Guckenburg, "Formal system processing of juveniles: Effects on delinquency," (Oslo, Norway: The Campbell Collaboration, 2010).



**(2) Most DOC commitments are for misdemeanor offenses, CHINS and probation violations.**



The work group found that a large majority of those sent to DOC were committed for lower-level offenses. In 2013, seven of every 10 youth placed in DOC custody had been committed for misdemeanor offenses, Children in Need of Supervision (CHINS) violations (also known as status offenses), and lower-level probation violations.<sup>10</sup>

All but one of the top 10 commitment offenses in 2013 were misdemeanors and probation and CHINS violations. More than a quarter of commitments resulted from probation violations.

Top 10 Offenses of 2013 Commitments			
Offense/Violation	Number	Percent	Cumulative % (non-felonies)
Probation Violation	74	27%	27%
Misdemeanor Possession of Marijuana, less than 2oz	24	9%	35%
Misdemeanor Simple Assault (1 <sup>st</sup> or 2 <sup>nd</sup> Offense)	23	8%	44%
Misdemeanor Ingesting an Illegal Substance	15	5%	49%
CHINS	12	4%	53%
Misdemeanor Petty Theft	11	4%	57%
Burglary 3 <sup>rd</sup> <sup>11</sup>	10	4%	--
Misdemeanor Ingesting Substance, Not Alcohol	7	3%	60%
Misdemeanor Criminal Entry of Motor Vehicle	6	2%	62%
Misdemeanor Damage to Property 2 <sup>nd</sup>	6	2%	64%

<sup>10</sup> 62 out of 74 (84 percent) of the probation violators committed to DOC in 2013 were originally placed on probation for a CHINS violation or non-sex misdemeanor adjudication. Those 62 probation violators account for 22 percent of the 2013 new commitments.

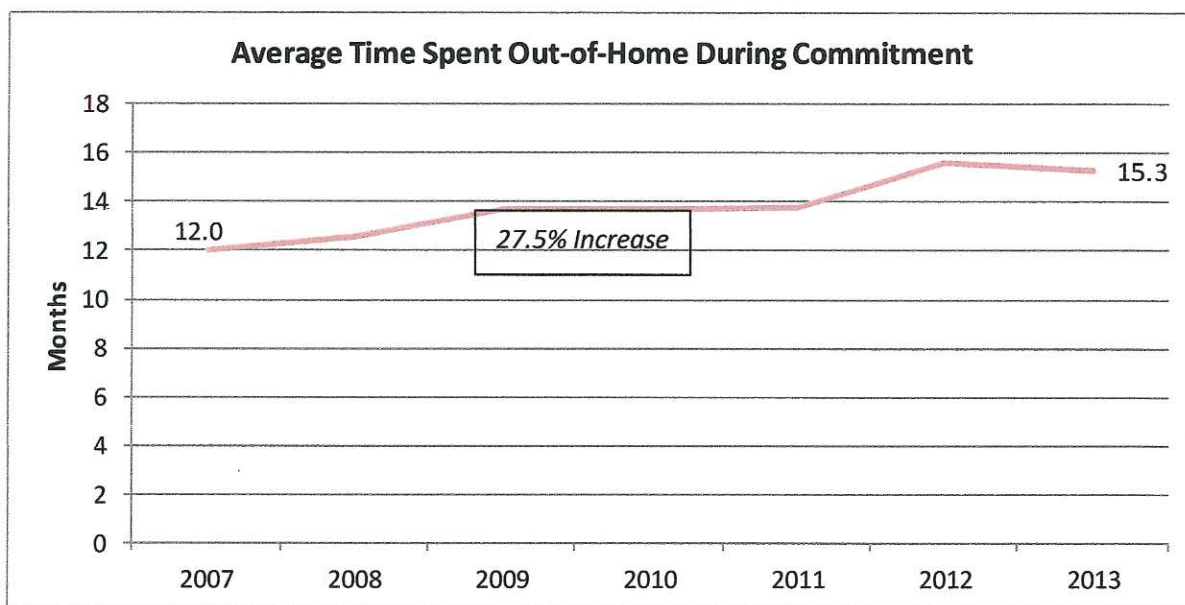
<sup>11</sup> 22-32-8. Third degree burglary--Felony. Any person who enters or remains in an unoccupied structure, other than a motor vehicle, with intent to commit any crime, unless the premises are, at the time, open to the public or the person is licensed or privileged to enter or remain, is guilty of third degree burglary. Third degree burglary is a Class 5 felony.



**(3) Fewer youth are committed to DOC, but they are staying longer.**

Two factors determine the size of the committed youth population: the number of youth committed to the state and the length of time they stay in DOC's custody. The work group found that even as new commitments to DOC declined 20 percent from 2004 to 2013, the youth who were committed were kept longer:

- On average, youth discharged from DOC in 2013 had spent 29 months in some combination of out-of-home placement and aftercare, 16 percent longer than youth discharged in 2007.
- The growth in the total length of commitment was driven by the increase in the average length of time out-of-home. Time spent out-of-home during a DOC commitment increased by 27.5 percent in the last decade to 15.3 months in 2013.



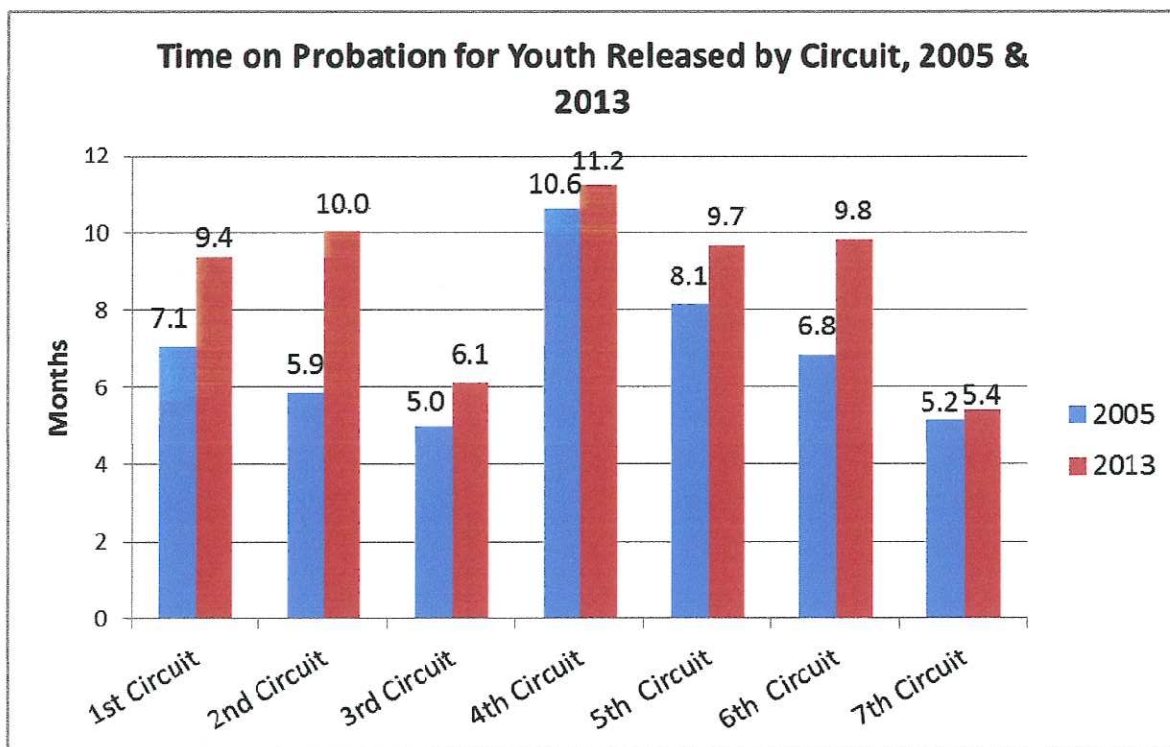
**(4) Admissions to probation are declining but are increasingly lower risk.**

Total admissions to juvenile probation in South Dakota fell 24 percent from 2004 to 2013, and the number of youth sent to probation dropped from a peak of 3,119 in 2008 to 2,198 in 2013. Along with the reductions in admissions over the last decade, there has been a shift in the makeup of the population toward lower risk youth and youth committing lower level offenses. From 2004 to 2013, the proportion of admissions to probation for misdemeanor offenses increased nine percentage points and the proportion of youth supervised at a low supervision intensity increased 13 percentage points. In South Dakota, youth are assigned supervision levels based on their assessed risk to reoffend, and low supervision intensity youth are low risk.



**(5) Length of probation supervision is increasing.**

Despite this shift toward lower supervision intensity and more misdemeanor youth placed on probation, both the initial terms of probation given to youth at the time of disposition and the actual time spent under probation supervision have grown. The average term of probation reached a high of 22.2 months in 2013, with great variation across circuits. Initial terms ranged from 10 months on average in the Second Circuit (Minnehaha and Lincoln Counties) to over 60 months in the Fourth Circuit (northwest corner of the state). The actual time spent on probation increased by two months statewide from 6.3 months on average in 2005 to 8.4 months in 2013. While all circuits had increases, overall average lengths of time on probation also varied across circuits from a low of 5.4 months in the Seventh Circuit to a high of 11.2 in the Fourth Circuit.



**(6) There are few evidence-based interventions for juvenile offenders available in the community.**

The assessment of South Dakota's juvenile system revealed a lack of programs across the state that have been shown to reduce delinquency among juvenile offender populations. The shortage is particularly acute in rural areas. In addition to insufficient program quantity in many areas of the state, the work group found a lack of infrastructure for ensuring (1) that youth are matched with interventions that address their criminal risk factors, and (2) that staff providing interventions are properly trained and are delivering the programs with fidelity.

To assess the availability of programs for juvenile offenders, members of the work group from the Department of Social Services (DSS), UJS and DOC looked into the programs to which they have access



or that they offer. They specifically examined the availability of cognitive behavioral programs, an approach proven to reduce delinquency<sup>12</sup>. DSS, Division of Behavioral Health, accredits Community Mental Health Centers and substance abuse providers across the state. Agencies that receive state funding provide services for eligible populations to include individuals with a severe mental illness, serious emotional disturbance and substance use disorders. However, individuals in the juvenile justice system have not been the target population so programs and services are not specific to the justice involved client. An informal survey of Chief Court Services Officers conducted by UJS showed great variation in the availability of cognitive behavioral programming across the circuits. A few programs accessed by Court Services have been studied in other jurisdictions and recognized as effective at reducing the likelihood of delinquency among juvenile offender populations, but Court Services does not know how many youth are served by those programs or if the programs are being delivered with fidelity. DOC also has access to some research-based programs, but those are only available in very limited areas of the state.

Some of the building blocks are in place to ensure that youth can be matched with the programming they need, such as the use of validated risk and needs assessments by UJS and DOC to identify higher risk youth and their criminal risk factors. However, the work group concluded that there is an insufficient array of programs to ensure those needs are met. Further, there is no infrastructure, such as training requirements, data collection, or quality assurance protocols, to ensure that the services to which probationers and youth on aftercare are referred are delivered by providers trained in the interventions who are delivering them with fidelity.

## **POLICY RECOMMENDATIONS**

To advance its goals, the JJRI Work Group makes the following recommendations in order to:

- Focus expensive residential placements on youth who are a public safety risk;
- Prevent deeper involvement in the juvenile justice system for youth committing lower level offenses;
- Improve outcomes by expanding access to evidence-based community interventions; and
- Ensure the quality and sustainability of reforms.

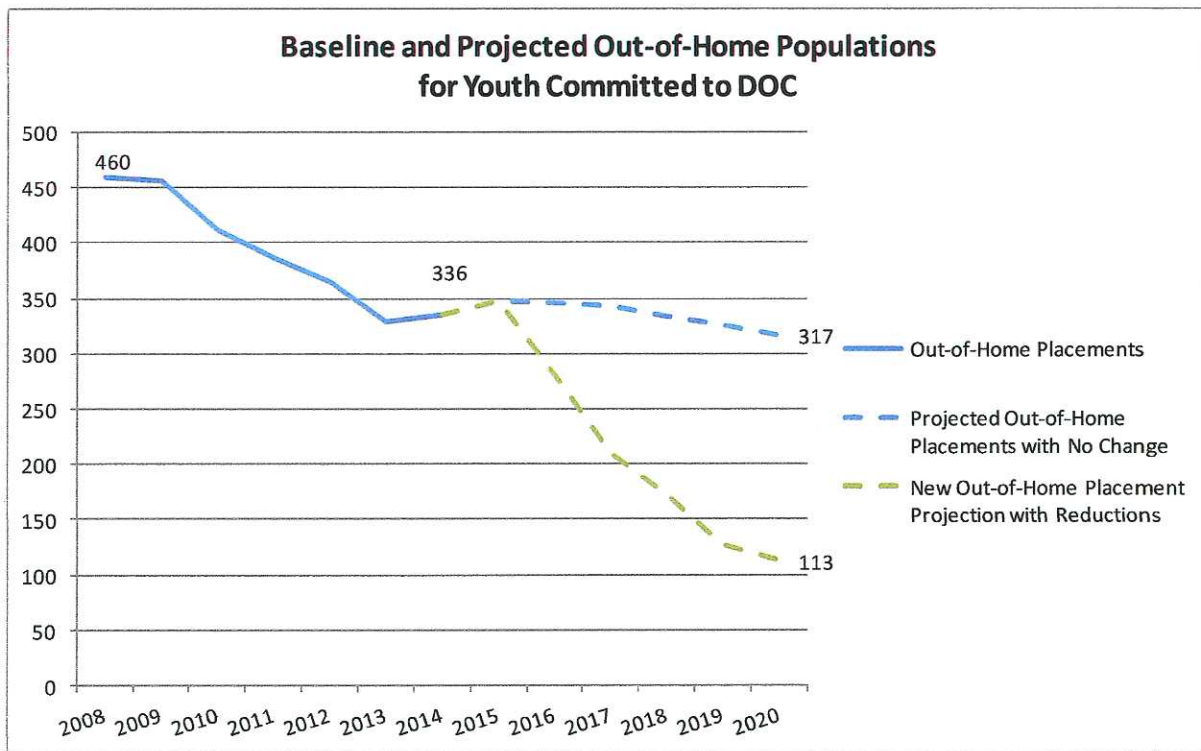
---

<sup>12</sup> Mark W. Lipsey, "The primary factors that characterize effective interventions with juvenile offenders: A meta-analytic overview," *Victims & Offenders* 4, no. 2 (2009): 124–147.



The proposed reforms are estimated to result in 64 percent fewer youth out-of-home in the care of the Department of Corrections by 2020. In addition, the probation population is expected to decline 29 percent.

While these reductions will produce cost savings, for these declines in population to be realized, the Juvenile Justice Reinvestment Initiative Work Group recommends the state invest in an array of evidence-based interventions in the community, as well as in the infrastructure to support ongoing training and quality assurance of these interventions. In addition, the work group recommends an incentive for counties to divert youth from court involvement.



### ***Focus expensive residential placements on youth who are a public safety risk***

*Recommendation 1: Establish presumptive probation for youth adjudicated delinquent or CHINS.*

- Require written findings of fact in the dispositional decree and oral findings of fact on the record in court if a judge departs and disposes a youth to DOC. The findings of fact must indicate that the youth is currently adjudicated delinquent for a crime of violence (22-1-2(9)), a sexual offense (22-24B-1), a felony sexual registry offense (22-24B), burglary in the second degree<sup>13</sup>(22-32-3), or any transferrable offense (26-11-3.1); or, the court finds from evidence presented at the dispositional hearing that the youth presents a significant and likely risk of physical harm to another person. The findings of fact must also establish that there are no viable alternatives in the community, and that DOC is the least restrictive viable alternative.

<sup>13</sup> Burglary in the first degree is defined as a crime of violence in SDC § 22-1-2(9).



- Allow a probation violator commitment to DOC only if the youth has engaged in behavior that would constitute a new violation of law, and the judge makes the findings of fact as outlined above.

*Recommendation 2: Establish Community Alternatives Response Teams (CARTs).*

- Use existing resources to develop at least one multidisciplinary CART in each circuit, comprised of representatives of UJS, DOC and DSS, and allow a school superintendent or a designee or other subject matter experts such as treatment providers to be invited to participate.
- Require judges to make a referral to a CART before making a final decree, if DOC is being considered as a disposition option. Require the CART, which serves as an advisory resource for judges, to propose alternatives to commitment within seven days of referral to the team or concur with the recommendation for commitment. The judge will consider the recommendation of the CART and exercise judicial discretion in the disposition decision. If the CART fails to make a recommendation within seven days, the court may proceed with disposition including a DOC commitment that meets the criteria of recommendation 1.

*Recommendation 3: Limit lengths of stay in DOC out-of-home placement.*

- Limit the length of stay in private group care and STAR Academy to four months, allowing the DOC Secretary to approve an extension of up to two months. Time spent in detention or shelter care does not count towards the time in group care and STAR Academy. The DOC Secretary may also approve an extension beyond six months for youth with developmental disabilities, or sex offenders, or specialized transition services which may include programs such as independent living, foster care and residential treatment step-down.
  - o If the youth is stepped up to a more intensive placement in a residential treatment center, the group care and STAR limitation is suspended.
  - o If a youth violates aftercare and the violation is for a new offense identified as a crime of violence (22-1-2(9)), sex offense (22-24B-1), or burglary in the 2nd degree (22-32-3), the 4-month stay in this level of care can be restarted.
- Reduce length of stay in residential treatment centers. Strengthen the DSS and DOC review process. The review will occur within three months of admission to determine if the placement goals have been met and the youth can be transitioned to a lower level of residential care or placed on aftercare. Allow extensions of up to three months, for a maximum stay of 12 months over the course of a commitment, with approval of the DOC Secretary. Reviews will occur at least once every three months. There are two exceptions to this policy. The DOC Secretary may approve:
  - o a stay in residential treatment centers up to 18 months if there is an assessed need for psychiatric treatment to address sexual behavior, and
  - o an extension beyond 12 months for any youth in residential treatment centers based on a DOC-authorized independent medical examination, if the independent reviewer agrees with the recommendation of the continued stay review to extend the stay. This process would also apply to youth who stay 18 months as a result of an assessed need for psychiatric treatment to address



sexual behavior. To the extent possible, this independent review will coincide with and cover other requirements that residential treatment centers are required to complete. This policy is not intended to interfere with the scope of authorizing medically necessary service.

### ***Prevent deeper involvement in the juvenile justice system for youth committing lower level offenses***

#### *Recommendation 4: Increase the use of diversion.*

- A designated group of apparent youth offenders must be offered diversion pre-petition. These youth include those who have no prior adjudications and are referred for a CHINS violation or are referred for a misdemeanor where the alleged offense does not include an element of force. State's attorneys may also refer any other youth to diversion.
- Allow restitution to be imposed while a youth is involved with a diversion.
- Appropriate funds to incentivize juvenile diversion that can be accessed by counties and/or diversion providers opting to participate by requesting incentive funds at the close of the state fiscal year based on the number of youth completing a diversion.
- Require counties that opt to participate in the incentive funding to collect data on the number of youth referred for diversion, the program or type of diversion, the name of the diversion provider, and whether or not the youth completed the diversion.

#### *Recommendation 5: Designate certain offenses as ticketable offenses.*

- Designate the following offenses to be processed similar to municipal curfew and tobacco violations using a ticket to commence proceedings rather than a petition, and mandate court appearances for the youth and his/her parent or guardian.
  - Designated Delinquency 1: Petty Theft in the Second Degree (under \$400) 22-30A-17.3
  - Designated Delinquency 2: Intentional Damage to Property in the Third Degree (under \$400) 22-34-1
  - Designated CHINS 1: Purchase, Possession, or Consumption of Beverage by Person Under Twenty-one Years Prohibited 35-9-2
  - Designated CHINS 2: Truancy (CHINS) 26-8B-2(1)
- Require law enforcement to ticket these offenses. For designated delinquency offenses, state's attorneys may proceed on the ticket, offer diversion, or file a petition at the initial court appearance. For designated CHINS violations, state's attorneys may proceed on the ticket or divert the first two cases. After the first two cases, state's attorneys may decide whether to ticket, divert, or file a formal delinquency or CHINS petition. If proceeding on the ticket, dispose of the case with a fine or alternative such as community service, and permit restitution to be ordered as part of this proceeding.
- Require these ticketed proceedings to be protected and not appear on the youth's formal record.



*Recommendation 6: Cap the duration of probation at four months.*

- Require UJS to set terms of probation not to exceed four months, and establish a process whereby court services officers can request up to two extensions of up to four months each if additional time is needed for a youth to complete evidence-based interventions or treatment. Require court approval for any extensions.
- A youth's probationary sentence may not be extended beyond one year. If a youth commits a new violation of law and is adjudicated delinquent or CHINS during the course of a probationary period, a new 4-month period of probation, with two possible 4-month extensions, may be imposed upon disposition of the new charge(s).
- If a judge determines a youth requires the juvenile intensive probation program, allow a judge to impose an initial probationary period of eight months, with the possibility of one 4-month extension to complete evidence-based interventions or treatment.
- Create a graduated response grid for probationers and utilize it to respond to non-compliant behavior and probation violations in the community.

***Improve outcomes by expanding access to evidence-based community interventions***

*Recommendation 7: Develop an array of effective interventions for youth with justice system involvement.*

- DSS, UJS and DOC, working with providers, should determine which individual, group and family-based interventions, such as Functional Family Therapy or similar programs, will be made available. Establish criteria for the selection of interventions including a requirement that they target moderate- to high-risk youth and have been shown through research to reduce recidivism.
- Require training, coordinated and overseen by a state entity, for any individual who will be responsible for delivering the selected interventions, and establish an ongoing quality assurance program.
- Assist providers in collecting and reporting on performance measures related to delivery and outcomes of interventions.
- Create a process for UJS and DOC that utilizes structured decision making tools, including risk and needs assessments as well as mental health and substance abuse screening tools and assessments, to guide referrals of court-involved youth to interventions that match their needs.
- Plan effective dates so there is time to develop an array of effective interventions before other policies go into effect.



*Recommendation 8: Ensure access to effective interventions for youth in rural areas.*

- Employ multiple strategies, such as the development of a different rate structure for identified rural and/or frontier areas and the piloting of a telehealth model, to improve access to interventions for youth in rural areas of the state. Track outcomes from the telehealth pilot to assess its feasibility and effectiveness.

*Recommendation 9: Develop a pilot program to improve outcomes among Native American youth.*

- Led by the Department of Tribal Relations, with the involvement of UJS, DOC and DSS, conduct stakeholder outreach and convene a group to develop a pilot to improve outcomes for Native American youth. The group should consider the following in addition to other areas:
  - Information sharing about youth under supervision;
  - Sharing treatment resources across jurisdictions;
  - Joint supervision; and
  - Transfer of supervision.

### ***Ensure quality and sustainability of reforms***

*Recommendation 10: Appoint an oversight council to monitor and evaluate the JJRI reforms.*

- Designate a group of stakeholders to monitor and evaluate the policies that result from the Juvenile Justice Reinvestment Initiative.

*Recommendation 11: Require DOC, UJS and DSS to develop performance measures.*

- Require DOC, UJS and DSS to develop implementation and outcome measures related to the JJRI policies, to report to the oversight council on the measures, and to regularly and jointly review the measures for quality assurance purposes.

*Recommendation 12: Collect data and create a cost sharing mechanism for detention stays by probation violators.*

- Collect data on the use of detention beds.
- Require the state to share in the increased costs, if any.
- As part of the graduated response grid, limit detention sanctions for probation violations to 48 hours.



## **CONCLUSION**

South Dakota has streamlined and improved its juvenile justice system over the past decade. New commitments to the DOC have fallen 20 percent and probation admissions are down 24 percent since 2004. The recidivism rate has come down from 53 percent to 45 percent in recent years<sup>14</sup>.

However, the work group found that the state can take a number of steps to get better results from the system at less cost to taxpayers. The DOC population is largely comprised of youth committing lower level offenses, and youth are staying longer under the custody and supervision of DOC when research indicates that better results are possible through the use of evidenced-based practices and programs in the community. These include preventing deeper involvement in the system by first-time and minor offenders and focusing expensive residential placements on youth who are a public safety risk and steering youth committing lower level offenses into less costly but often more effective programs in the community.

The Juvenile Justice Reinvestment Initiative Work Group recommends the package of policies included in this report to Governor Dugaard, Chief Justice Gilbertson, President Pro Tempore Brown, Speaker Gosch, Majority Leader Rave, House Majority Leader Lust, Senate Minority Leader Frerichs, and House Minority Leader Hunhoff. The work group believes these policies meet the goals established for it, and encourages these leaders to introduce legislation and court rules based on these recommendations.

---

<sup>14</sup> The recidivism rate of juveniles released in 2005 was 53%. The rate for juveniles released in 2010 was 45%.



**MEMBERS OF THE JUVENILE JUSTICE REINVESTMENT INITIATIVE WORK GROUP**

Jim D. Seward, General Counsel for Governor Daugaard, Chair

Nancy Allard, Director of Trial Court Services, Unified Judicial System

Representative Julie Bartling (D-District 21)

Kristi Bunkers, Director of the Juvenile Community Corrections, Department of Corrections

Speaker Brian Gosch (R-District 32)

Doug Herrmann, Director of Juvenile Services, Department of Corrections

Judge Steven Jensen, Presiding Judge, First Judicial Circuit

Sheriff Mike Leidholt, Hughes County

Judge Larry Long, Presiding Judge, Second Judicial Circuit

Judge Scott Myren, Presiding Judge, Fifth Judicial Circuit

Terry Nebelsick, Huron Superintendent

Angel Runnels, Minnehaha County Public Defender

Senator Alan Solano (R-District 32)

Senator Billie Sutton (D-District 21)

Mark Vargo, Pennington County State's Attorney

Bob Wilcox, Executive Director, South Dakota Association of County Commissioners

Tiffany Wolfgang, Director of Division of Behavioral Health, Department of Social Services

**ACKNOWLEDGEMENTS**

The work group would like to thank the following individuals and their affiliated organizations for their assistance in this initiative:

Denny Kaemingk, Secretary, Department of Corrections

Kevin McLain, Director of Grants and Research, Department of Corrections

Kelsey Luckhurst, Intern, Office of the Governor

Kim Malsam-Rysdon, Senior Policy Advisor, Office of the Governor

Amy Iversen-Pollreisz, Deputy Secretary, Department of Social Services

Bill Popenga, IT Project Manager, Unified Judicial System

Greg Sattizahn, State Court Administrator, Unified Judicial System

Jacqueline Sly, Representative, District 33

Sadie Stevens, Intern, Office of the Governor

Craig Tieszen, Senator, District 34

Patrick Weber, Policy Analyst, Office of the Governor

Lynne Valenti, Secretary, Department of Social Services